

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

1985 0813 OM 034

Department of Health Services v. Susan Smith, L.P.N. #017953

73 Hillview Street
Naugatuck, Connecticut 06770

MEMORANDUM OF DECISION

INTRODUCTION

The Board of Examiners for Nursing, (hereafter the "Board"), was presented by the Department of Health Services with an amended Statement of Charges dated February 18, 1987.

The Statement of Charges alleged violations of certain provisions of Chapter 378, Connecticut General Statutes. The Board issued a Notice of Hearing dated February 25, 1987. The hearing took place on March 18, 1987 in room 120, Connecticut Department of Health Services, 150 Washington Street, Hartford, Connecticut.

Each member of the Board involved in this decision attests that he/she has reviewed the record, and that this decision is based entirely on the record and their specialized professional knowledge in evaluating the evidence.

FACTS

The respondent was not present at the hearing and was not represented by counsel. Based on the testimony given and the exhibits offered into evidence at the above hearing, the Board made the following findings of fact:

1. Susan Smith, respondent, was at all pertinent times licensed to practice nursing as a licensed practical nurse with registration number 017953.

2. Pursuant to Connecticut General Statutes, Section 4-182(c), the respondent was provided full opportunity prior to the institution of agency action to show compliance with all the terms for the retention of her license.

3. The respondent was aware of the time and location of this hearing. Department's Exhibit 1 includes a notice of hearing sent to the respondent certified mail and the receipt for this mailing signed by the respondent.

4. The respondent, while working as a licensed practical nurse at Waterbury Hospital in April of 1985 and at subsequent times thereto, diverted the controlled substance Demerol.

5. The respondent, while working as a licensed practical nurse at Waterbury Hospital in April of 1985 and at subsequent times thereto, falsified documentation on Demerol Proof of Use Sheets.

6. The respondent, while working as a licensed practical nurse at Waterbury Hospital in April of 1985 and at subsequent times thereto, forged the name of another nurse on a Demerol Proof of Use Sheet.

DISCUSSION AND CONCLUSIONS

The First Count Subsection 3a alleges that while employed as a licensed practical nurse at Waterbury Hospital on or about April of 1985 and subsequent times thereto, the respondent diverted the controlled substance Demerol. The respondent denied this charge in a statement to drug control agents.

The above described conduct is a violation of the Connecticut General Statutes Section 20-99(b). In pertinent part, Section 20-99(b) includes: (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions.

The Board heard evidence that contradicted the respondent's claim. Specifically, when the respondent was the nurse recording the administration of Demerol, there were many discrepancies between the Medication Administration Record and the nurse's notes for patients as to whether the patient received the medication. Neither the medication record nor the nurse's notes of Department's Exhibit 4 indicate that patient Ruth Borsos received the Demerol 50mg that the respondent withdrew to administer to her on April 29, 1985 at 4:00 P.M. according to Proof of Use Sheet number 42312. The Medication Administration Record for patient Connie Poulin was not available, but the nurse's notes of April 16, 1985 in Department's Exhibit 4 do not indicate administration of Demerol 50 mg at 3:00 P.M. or 6:00 P.M. as ordered, though the respondent had signed the Proof of Use Sheets number 42962 for these medications as shown in Department's Exhibit 4. Similarly, patient Kenneth Sprague had current orders to receive Demerol 75mg on April 30, 1985, but the

nurse's notes in Department's Exhibit 4 do not indicate administration of the medication, though Proof of Use Sheet number 42301 shows withdrawals by the respondent for a 4:00 P.M. and 7:00 P.M. administration and Proof of Use Sheet number 42440 shows withdrawals for 8:00 P.M. and 10:30 P.M. There is a record of the 4:00 P.M. administration and the waste of the excess from 8:00 P.M. administration in the Medication Administration Record, but there is no documentation by the respondent demonstrating that the 7:00P.M. and the 10:30 P.M. administrations were actually received by the patient. Interviews with patient Borsos by hospital staff produced reliable evidence that she had not received Demerol medication that had been signed out for her by the respondent. The Board therefore concludes that the respondent has violated Section 20-99(b) as specified in the First Count Subsection 3a.

The First Count Subsection 3b alleges that while employed as a licensed practical nurse at Waterbury Hospital on or about April of 1985 and subsequent times thereto, the respondent abused or utilized to excess the controlled substance Demerol. The respondent denied this charge in a statement to drug control agents.

The above described conduct is a violation of the Connecticut General Statutes Section 20-99(b). In pertinent part, Section 20-99(b) includes: (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals.

Insufficient evidence of self use of the diverted Demerol was produced to satisfy the burden of proof as to the respondent's abuse of the medication. The Board therefore concludes that the

respondent did not violate Section 20-99(b) as specified in the First Count Subsection 3b.

The First Count Subsection 3c alleges that while employed as a licensed practical nurse at Waterbury Hospital on or about April of 1985 and subsequent times thereto, the respondent falsified documentation on Demerol Proof Of Use Sheets. The respondent denied this charge in a statement to drug control agents.

The above described conduct is a violation of the Connecticut General Statutes Section 20-99(b). In pertinent part, Section 20-99(b) includes: (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (6) fraud or material deception in the course of professional services or activities; (7) wilful falsification of entries in any hospital, patient or other record pertaining to drugs, the results of which are detrimental to the health of a patient.

The evidence presented to the Board indicated that the respondent did falsify records on the Proof of Use Sheets for Demerol. As discussed above under the First Count Subsection 3a, evidence introduced demonstrated that medication signed out on the Proof of Use Sheets for specific patients was never administered to them. Specifically, the above mentioned Demerol Proof of Use Sheets numbers 42962, 42301, and 42440 of Department's Exhibit 4 were falsified by the respondent in her attempts to cover her diversion of the drug. The Board therefore concludes that the respondent has violated Section 20-99(b) as specified in the First Count Subsection 3c.

The First Count Subsection 3d alleges that while employed as a

licensed practical nurse at Waterbury Hospital on or about April of 1985 and subsequent times thereto, the respondent failed to completely, accurately or properly document on medical or hospital records.

The above described conduct is a violation of the Connecticut General Statutes Section 20-99(b). In pertinent part, Section 20-99(b) includes: (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (6) fraud or material deception in the course of professional services or activities.

To the extent that the Board interprets this allegation to be referring to records other than the Proof of Use Sheets discussed in this decision, the Board finds that there was insufficient evidence to conclude that the respondent failed to completely, accurately or properly document on medical or hospital records. The Board therefore concludes that the respondent did not violated Section 20-99(b)(2) and (6) as alleged in the First Count Subsection 3d.

The First Count Subsection 3e alleges that while employed as a licensed practical nurse at Waterbury Hospital on or about April of 1985 and subsequent times thereto, the respondent forged the name of another nurse on a Demerol Proof of Use Sheet. The respondent denied this charge in a statement to drug control agents.

The above described conduct is a violation of the Connecticut General Statutes Section 20-99(b). In pertinent part, Section 20-99(b) includes: (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions; (6) fraud or material deception in the course of professional services or activities; (7) wilful falsification of entries in any hospital, patient or other

record pertaining to drugs, the results of which are detrimental to the health of a patient.

The evidence presented to the Board in Department's Exhibit 4 indicated that the signatures in question, that of Anna Gagnon on the Demerol Proof of Use Sheet number 47151, and that of Elizabeth Chapin as a witness to a waste of Demerol on Proof of Use Sheet number 47585, were not genuine. Ms. Chapin, in a notarized statement dated October 17, 1985, stated that her signature on Proof of Use Sheet 47585 was not written by her and that the respondent had phoned her on October 17, 1985, and had told her that she had signed her name as a witness to the waste of Demerol. Document examiner William Duane of the Connecticut State Police believed similarities exist between the signatures of the respondent and the forged signatures. The Board therefore concludes that the respondent has violated Section 20-99(b) as specified in First Count Subsection 3e.

ORDER

It is the unanimous decision of those members of the Board of Examiners for Nursing who were present and voting that:

a. The license of the respondent ~~be placed on suspension for three years followed by two years probation determined as follows:~~

- i. as to the First Count, Subsection 3a, three years suspension, followed by two years probation;

- ii. as to the First Count, Subsection 3c, three years suspension, followed by two years probation;
- iii. as to the First Count, Subsection 3e, three years suspension, followed by two years probation;
- iv. the three year suspension periods followed by two year probationary periods referenced in (i), (ii), and (iii) above are to run concurrently for an effective three year suspension followed by a two year probation period;

b. If respondent violates any of following conditions of probation, the Board will place respondent on immediate summary suspension, with respondent having the right of appeal/review within sixty (60) days of the effective date of suspension:

- i. When employed in nursing, respondent must submit a copy of her Memorandum of Decision to her nursing supervisor, and must have submitted from her nursing supervisor bimonthly reports. These reports must document her ability to administer safe and effective nursing care in a drug free state, including the administration of controlled substances.
- ii. Respondent must submit a copy of her Memorandum of Decision to her licensed therapist, and must have submitted bimonthly "reports". The reports must document respondent's participation in therapy, drug free state, emotional health, and ability to administer safe nursing care, including the administration of controlled substances.

- iii. The respondent must successfully complete a refresher course to update her nursing knowledge and skills. Refresher course must have prior Board approval before probation commences.
- iv. Respondent shall not obtain or use any Controlled drug that has not been prescribed for a legitimate purpose by a licensed health practitioner.
- v. All reports are to be in the office on the first day of the month they are due.
- vi. Respondent is not to work for a personnel provider service during the term of her probation.
- vii. Respondent must inform the Board prior to any change of employment or change of address in writing.
- viii. All correspondence and reports are to be sent to:

Office of the Board of Examiners for Nursing
Department of Health Services
150 Washington Street
Hartford, CT 06106

c. The said period of suspension shall commence September 15, 1988.

d. The respondent is hereby directed to surrender her license on or before September 15, 1988 to the Board of Examiners for Nursing, 150 Washington Street, Hartford, Connecticut, 06106.

The Board of Examiners for Nursing herewith advises the Department of Health Services of the State of Connecticut of this decision.

Dated at *Hartford* , Connecticut, this *21st* day of *July* , 19*88*

BOARD OF EXAMINERS FOR NURSING

By *Bette Jane M. Murphy, RN*

Bette Jane M. Murphy, R.N., Chairman

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